

ATTACHMENT

Revised Self Certification Application Process for the Lease-Purchase Program September 25, 1996

GENERAL

AB 1603 became law in 1991 and allows districts to self certify certain portions of the Lease- Purchase application process for those projects where the district will pay at least 50 percent of the cost of the project. The State Allocation Board (SAB) approved an implementation policy for this law in 1992. However, that policy proved to be cumbersome and difficult to understand. As a result, few districts have applied for funds under the self certification program. This revised policy will supersede the previous policy and will be required for all 50/50 new construction and modernization projects where the district is amending or requesting an initial approval of the project from bond funds available after 1996.

WHICH PROJECTS APPLY

Any 50/50 application not yet initially approved or amended by the SAB for growth or modernization (except those excluded by penalty) that is requesting funding from bond funds available after 1996 must utilize this self certification application process.

Districts seeking more than 50 percent state funding must submit their request under the traditional application process.

APPLICATION PROCESS

As a result of the provisions of AB 1603, the application process and the sequence of events for approval by the SAB of a self certifying application are somewhat different than a traditional project. The application process or sequence of events are as follows:

Step #1 District completes and submits the self certification application package to the Office of Public School Construction (OPSC).

Step #2 The OPSC reviews the application package and:

- a. Determines if all necessary application documents have been submitted, if there are any irregularities in the proposal and notifies the district within 30 calendar days from receipt of the district's application. If the application package is unacceptable, it is returned to the district with explanations. If the package is complete or the 30 day period expires the OPSC will proceed to item b below.
- b. The OPSC audits the projections of Average Daily Attendance (ADA) and notifies the district of their findings within 45 calendar days from acceptance of the district's application package to the OPSC. If the ADA data is unacceptable, it is returned to the district and the 45 day timeline will be reset and begin upon receipt of the revised ADA information. If the ADA data is acceptable, the application is deemed to meet the SAB requirements for Phase P approval. Note that failure of action by the OPSC to respond to the district within the 45 day period does not cancel the SAB's ability to conduct audit functions, other than the ADA data, at a later date.

Step #3 If the ADA projection data is acceptable or the 45 day period expires, the OPSC will schedule the application for Phase P consideration at the next available SAB meeting.

Step #4 The district submits the necessary documents included in the self certification package for site acquisition (if appropriate) to the OPSC for Phase S review. The OPSC will review the request and, if acceptable, submit the request to the next available SAB meeting for Phase S consideration. Upon receipt of acceptable site acquisition documents, the OPSC will endeavor to maintain the 60 calendar day reasonable turn around time for review and submittal to the SAB for consideration of the district's request.

Step #5 District completes the Division of State Architect (DSA) final unapproved plans/cost estimate and submits to the OPSC. The OPSC reviews the plans, develops the construction allowance for the project and notifies the district via plan review letter (i.e. same as regular project). The OPSC will endeavor to review the unapproved final plans prior to submittal of the DSA approved plans.

Step #6 District submits the final DSA approved plans, recertification of eligibility and other required documents to the OPSC. The OPSC reviews the DSA approved plans, develops the final allowance for the project and submits request to the next available SAB meeting for Phase C consideration. The OPSC will endeavor to maintain the 60 calendar day reasonable turn around time for review and submittal to the SAB for consideration of the district's request.

Step #7 Upon SAB approval and apportionment of the Phase C request, the district is authorized to bid the project. The SAB approves the bid and adjusts the project budget in accordance with the SAB approved area (i.e. same as regular project).

Districts seeking reimbursement may proceed with bidding and funding the project with its own funds after a Phase C has been approved by the SAB. Districts are advised that reimbursement will only be made in accordance with the SAB reimbursement policy.

Step #8 Final close out of the project expenditures will be made based on normal guidelines.

AUDITS

If an audit is to be made of the district's eligibility (i.e. square footage entitlement), the OPSC must notify the district prior to the date the Notice of Completion is filed for the project that an audit is in process and call for the necessary documents to complete the review. The OPSC has 60 calendar days from receipt of the necessary documents from the district to complete the review. If the district is not notified that an audit will be made prior to the date of the Notice of Completion, no audit will be made and the project will be closed out based on the area entitlement previously approved by the SAB.

For purposes of Education Code (EC) Section 17729, the district will not be given the authority to self certify site acquisition costs or that bid(s) are within SAB standards. The SAB will conduct random audits of information certified except the estimates of ADA as outlined in EC Section 17741.1.

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OPSC ASSISTANCE FOR APPLICATION PREPARATION

Should any district wish guidance in the preparation of its self certification package, the OPSC will provide assistance. The district must notify to the OPSC in writing that it wishes assistance. The district's request will be added to the list of applications awaiting processing in the order of date received. Self certification projects will not be given a work load priority for processing above other projects already received. Note that assistance from the OPSC in the preparation of the application package does not cancel the SAB's ability to conduct the audit function of any application documents not previously reviewed.

PENALTIES AND ARBITRATION POLICY

California Department of Education (CDE)

If, as a result of review by the CDE, there are material inaccuracies in the site selection or the building plans and specifications, the district is subject to the penalties and the arbitration procedures outlined in EC Section 17724 and the CDE guidelines.

State Allocation Board

If an audit by the OPSC of the district's area entitlement indicates material inaccuracies, the SAB will impose the following penalties in accordance with EC Section 17741.2:

- a. Any area constructed in excess of the district's entitlement determined at the time the project was approved for Phase P will be deemed chargeable area. If subsequent projects were approved for either new or modernization, their entitlement shall be affected.
- b. Any state funded costs applicable to the excess area must be repaid to the SAB with interest in a repayment schedule approved by the SAB in no more than five years. Repayment should begin in the fiscal year following the fiscal year the audit findings have been presented to the SAB. The rate of interest shall be calculated based on the Pooled Money Investment Account or the rate on the latest State General Obligation Bond, whichever is greater. If the district defaults on any repayment obligation in a fiscal year, the amount of default will be deducted from the district's State School Fund apportionments in that fiscal year.
- c. If any material inaccuracy is determined, the SAB shall prohibit the district from exercising the self certifying authority for any subsequent applications for a period of up to five years or until the entire repayment is made, whichever occurs later. Exclusion from the self certification program will prohibit the district from filing as a priority one 50/50 project.
- d. Any district which the SAB has imposed the penalties outlined in items a, b or c above may submit for binding determination by an arbitrator whether the penalties imposed are disproportionate based on the data certified by the district. The procedure for arbitration is set forth in Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedures.

OTHER LEASE PURCHASE PROGRAM CRITERIA

All other Lease-Purchase program criteria not specifically noted above shall apply to the self certification program.